

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL P. BURGESS,

Plaintiff,

v.

FULTON FRIEDMAN & GULLACE,

Defendant.

CIVIL ACTION 1:14-cv-07685

COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT FOR RELIEF PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT

NOW COMES the Plaintiff, MICHAEL P. BURGESS (“Michael”), by and through his attorneys, SULAIMAN LAW GROUP, LTD., complaining of the Defendant, FULTON FRIEDMAN & GULLACE (“Fulton”) as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages for Defendant’s violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. (“FDCPA”).

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the FDCPA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §1692 (FDCPA) and 28 U.S.C. §§1331, 1337, as this action arises under the laws of the United States.

3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as defendant conducts business in the Northern District of Illinois and all of the events or omissions giving rise to the claim occurred within the Northern District of Illinois.

PARTIES

4. Michael is a natural person who resides in the Northern District of Illinois and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

5. At all times relevant to the action, Fulton was a corporation with headquarters located at 5 East Van Buren Street, Unit 214, Joliet, Illinois 60432.

6. Fulton is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts.

FACTS SUPPORTING CAUSE OF ACTION

7. Asset Acceptance, LLC (“Asset”) has been attempting to collect from Michael an alleged consumer debt in the amount of \$11,843.84.

8. On September 16, 2013, Fulton, on behalf of Asset, filed a complaint in the Circuit Court of Cook County, Illinois against Michael. The case was captioned *Asset Acceptance, LLC v. Michael P. Burgess*, case number 2013 M1 151062 (“Collection Case”). *See* Exhibit A, a true and correct copy of the Summons and Complaint filed in the Collection Case.

9. Fulton filed the Collection Case at the Richard J. Daley Center Courthouse. *Id.*

10. The Richard J. Daley Center Courthouse serves Cook County’s First Municipal District. *See* Exhibit B, a true and correct copy of a map of the Circuit Court of Cook County Municipal Districts and Courthouses.

11. Civil matters that do not meet the damages threshold to be filed in the Law Division of the Circuit Court of Cook County are assigned to the Circuit Court’s Civil/Municipal Division.

12. Cases filed in the First Municipal District are identified by the abbreviation “M1.”

13. Michael resides at 1525 Norway Lane, 3B, Palatine, Illinois 60074.
14. Palatine, Illinois is located within Cook County, but is located within the Circuit Court of Cook County's Third Municipal District. *Id.*
15. The Rolling Meadows Courthouse is the courthouse that serves the Circuit Court of Cook County's Third Municipal District. *Id.*
16. The Richard J. Daley Center Courthouse is 38 miles from Michael's home.
17. In contrast, the Rolling Meadows Courthouse is 5.2 miles from Michael's home.
18. In order for Michael to travel to the Rolling Meadows Courthouse from his home, he would merely have to drive on Illinois 53 South and park in the free parking lot at the Rolling Meadows Courthouse.
19. According to Google Maps, the trip would take about 8 minutes.
20. In order for Michael to travel to the Richard J. Daley Center Courthouse, he must first take Interstate 290 East to Chicago, locate expensive parking for his vehicle, and make his way there either on foot or via taxi.
21. According to Google Maps, this trip will take 44 minutes excluding the time spent in traffic, locating parking, and actually making the trek to the Richard J. Daley Center Courthouse.
22. The courthouse closest to Michael's home is the Rolling Meadows Courthouse.
23. On December 17, 2013, Fulton filed a motion to dismiss the Collection Case against Michael. *See* Exhibit C, a true and correct copy of the Collection Case court docket.

COUNT I -- VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

24. Michael repeats and realleges paragraphs 1 through 23 as though fully set forth herein.

25. The Collection Case was an attempt to collect a “consumer debt” as defined by the FDCPA, 15 U.S.C. §1692a(5).

26. 15 U.S.C. §1692i(a)(2) requires that a debt collector sue a consumer in the judicial district or similar legal entity where the consumer resides at the commencement of the action.

27. 15 U.S.C. §1692i(a)(2) of the FDCPA prohibits *any legal action* brought by a debt collector in a location other than where the contract was signed or where the consumer resides.

28. Fulton violated 15 U.S.C. §1692i(a)(2) on December 17, 2013 when it filed its motion to dismiss the Collection Case against Michael at the Richard J. Daley Center Courthouse, a location some 32.8 miles further from Michael’s home than the Rolling Meadows Courthouse.

29. The closest courthouse to Michael is the Rolling Meadows Courthouse.

30. Fulton sued Michael at a remote courthouse in order to discourage him from appearing and defending the Collection Case.

31. Fulton’s unlawful collection activities constitute abusive forum-shopping in violation of the FDCPA.

WHEREFORE, Plaintiff, MICHAEL P. BURGESS, respectfully requests that this Honorable Court enter judgment in his favor as follows:

- a. declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;
- b. awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations;
- c. awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692; and
- d. awarding any other relief as this Honorable Court deems just and appropriate.

Dated: October 1, 2014

Respectfully Submitted,

/s/ Mohammed O. Badwan

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